

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DERRICK DEWAYNE NELSON (3)

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Case No. 4:06cr196
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 10, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Jay Johnson.

On February 26, 2007, Defendant was sentenced by the Honorable Richard A. Schell to thirty (30) months' custody followed by three (3) years of supervised release for the offense of Conspiracy to Possess with Intent to Distribute or Dispense 3,4-Methylenedioxy-Methamphetamine and Marijuana. On December 12, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On November 16, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated various mandatory and standard conditions. Violation allegations two, three, four, and five were dismissed by the Government. The petition also alleged violation of the following additional mandatory condition: the defendant shall not commit another federal, state, or local crime.

The petition alleges that Defendant committed the following acts with regard to the remaining violation: (1) On or about November 11, 2010, Defendant was arrested by the Sherman,

Texas Police Department and charged with possession of marijuana. Defendant was released on bond. On July 27, 2011, Defendant was indicted in the 59th District Court in Grayson County, Texas. On January 5, 2012, a Judgment was entered against Defendant for this charge.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violation. The parties agreed to a sentence of eleven (11) months with no supervised release.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eleven (11) months to run consecutively with any sentence he is serving, with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 12th day of January, 2012.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE